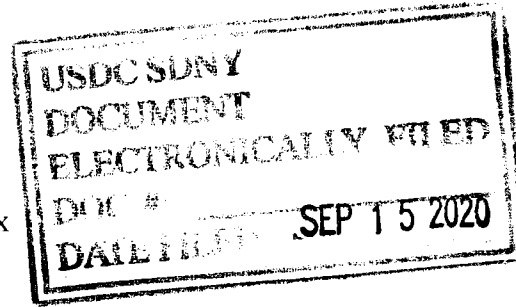


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



CHRISTOPHER MORALES,

Plaintiff,

-against-

NANCY A. BERRYHILL, *Acting Commissioner of*
Social Security,

Defendant.

MEMORANDUM DECISION
AND ORDER

19 Civ. 3075 (GBD) (SN)

GEORGE B. DANIELS, United States District Judge:

Plaintiff Christopher Morales brings this action against Defendant the Commissioner of Social Security under the Social Security Act, 42 U.S.C. §§ 405(g), 1383(c)(3), seeking review of an administrative law judge's decision denying Plaintiff disability benefits. (Compl., ECF No. 1, at 1–2.) Both parties moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). (Notice of Mot. for Reversal and Remand for Further Proceedings, ECF No. 16; Notice of Cross-Mot., ECF No. 26.)

Before this Court is Magistrate Judge Sarah Netburn's August 31, 2020 Report and Recommendation (the "Report"), recommending that Plaintiff's motion be granted, Defendant's cross-motion be denied, and the matter be remanded for further proceedings. (Report, ECF No. 29, at 22.) Magistrate Judge Netburn advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.*) No objections have been filed.

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). A magistrate

judge's report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when, “upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation and internal quotation marks omitted).

Magistrate Judge Netburn concluded that the administrative law judge committed several errors in determining whether Plaintiff is eligible to receive disability insurance benefits. Specifically, Magistrate Judge Netburn found that the judge improperly relied on Plaintiff's higher Global Assessment of Functioning (“GAF”) scores to deny Plaintiff's claim, without discussion of conflicting treatment notes or the context in which such scores were assigned, while discounting lower GAF scores because of the context in which they were assessed. (Report at 13–16.) Further, the judge used unexplained GAF scores to assign weight to the opinions of Plaintiff's consultative examiner and the Social Security Agency's non-examining consultant. (*Id.* at 16–18.) Finally, the judge impermissibly substituted his own judgment of the medical evidence for that of Plaintiff's consultative examiner in rejecting the examiner's opinion. (*Id.* at 18–20.)


Magistrate Judge Netburn's findings regarding the administrative law judge's decision were well-reasoned and grounded in fact and law. This Court has reviewed the Report, and finds no error, clear or otherwise. Accordingly, Magistrate Judge Netburn's Report is ADOPTED.

Plaintiff's motion for judgment on the pleadings, (ECF No. 16), is GRANTED. Defendant's cross-motion for judgment on the pleadings, (ECF No. 26), is DENIED. This matter is remanded for further proceedings. The Clerk of Court is directed to close the motions accordingly.

Dated: New York, New York
September 15, 2020

SO ORDERED.

SEP 15 2020



GEORGE B. DANIELS
United States District Judge